



IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
ROCK HILL DIVISION

DAMIEN PARHAM,
Plaintiff,

vs.

JOHN HICKEY,
Defendant.

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CIVIL ACTION NO. 0:05-2282-HFF-BM

ORDER ADOPTING THE REPORT AND RECOMMENDATION OF THE
MAGISTRATE JUDGE EXCEPT DISMISSING THE ACTION *WITHOUT PREJUDICE*

This case was filed as a Section 1983 action. Plaintiff is proceeding *pro se*. The matter is before the Court for review of the Report and Recommendation (Report) of the United States Magistrate Judge suggesting that the case be dismissed pursuant to Rule 41(b) of the Federal Rules of Civil Procedure with prejudice. The Report is made in accordance with 28 U.S.C. § 636, and Local Rule 73.02 for the District of South Carolina.

The Magistrate Judge makes only a recommendation to this Court. The recommendation has no presumptive weight. The responsibility to make a final determination remains with the Court. *Matthews v. Weber*, 423 U.S. 261, 270 (1976). The Court is charged with making a *de novo* determination of those portions of the Report to which specific objection is made, and the Court may accept, reject, or modify, in whole or in part, the recommendation of the Magistrate Judge or recommit the matter with instructions. 28 U.S.C. § 636(b)(1).

The Magistrate Judge filed the Report on January 12, 2006. Plaintiff failed to file any objections to the Report.¹ In the absence of objections, the Court is not required to give any explanation for adopting the recommendation. *See Camby v. Davis*, 718 F.2d 198, 199 (4th Cir. 1983).

After a thorough review of the Report and the record in this case pursuant to the standards set forth above, the Court adopts the Report and incorporates it herein, except the action will be dismissed *without prejudice*. Therefore, it is the judgment of this Court that the case be **DISMISSED** according to Rule 41(b) of the Federal Rules of Civil Procedure *without prejudice*.

IT IS SO ORDERED.

Signed this 2nd day of February, 2006, in Spartanburg, South Carolina.

s/ Henry F. Floyd
HENRY F. FLOYD
UNITED STATES DISTRICT JUDGE

NOTICE OF RIGHT TO APPEAL

Plaintiff is hereby notified of the right to appeal this Order within thirty (30) days from the date hereof, pursuant to Rules 3 and 4 of the Federal Rules of Appellate Procedure.

¹The Court notes that Plaintiff is likely unaware of the Report since, on January 23, 2006, Plaintiff's copy of the Report was returned as undeliverable. In light of the record in this case, however, and Plaintiff's failure to keep the Court apprised of his current mailing address, the Court has no option but to dismiss the action.